

## **§ 381.22**

Control Act as provided in paragraph 21(b)(9) of said Act.

[37 FR 9706, May 16, 1972, as amended at 64 FR 66545, Nov. 29, 1999]

EFFECTIVE DATE NOTE: At 64 FR 66545, Nov. 29, 1999, § 381.21 was amended by removing paragraphs (a), (b), and (c); by redesignating paragraph (d) as (b); and by adding a new paragraph (a) was added, effective Jan. 25, 2000. For the convenience of the user, the superseded text is set forth as follows:

### **§ 381.21 Refusal of inspection.**

(a) The Administrator may refuse to grant inspection at any establishment if he determines that it does not meet any requirements as to premises, facilities, and equipment, and the operation thereof, prescribed in the regulations under section 7 of the Act to prevent the distribution under the Act of adulterated poultry products, or that the applicant has not received approval of labeling and containers to be used at the establishment as required by the regulations. When inspection is refused for any such reason, the applicant shall be informed of the action and the reasons therefor and afforded an opportunity to present his views informally.

(b) If the refusal is based on a failure to comply with any requirements prescribed under section 7 of the Act, the applicant shall, upon his request, be afforded opportunity for a hearing in accordance with applicable rules of practice, with respect to the merits or validity of the action taken, but such refusal shall continue in effect unless otherwise ordered by the Secretary.

(c) Inspection may also be refused in accordance with section 18(a) of the Act and the applicable rules of practice.

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### **§ 381.22 Conditions for receiving inspection.**

(a) Before being granted Federal inspection, an establishment shall have developed written sanitation Standard Operating Procedures, in accordance with part 416 of this chapter.

(b) Before being granted Federal inspection, an establishment shall have conducted a hazard analysis and developed and validated a HACCP plan, in accordance with §§ 417.2 and 417.4 of this chapter. A conditional grant of inspection shall be issued for a period not to exceed 90 days, during which period the establishment must validate its HACCP plan.

(c) Before producing new product for distribution in commerce, an establish-

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ment shall have conducted a hazard analysis and developed a HACCP plan applicable to that product in accordance with § 417.2 of this chapter. During a period not to exceed 90 days after the date the new product is produced for distribution in commerce, the establishment shall validate its HACCP plan, in accordance with § 417.4 of this chapter.

[61 FR 38866, July 25, 1996]

### **Subpart E—Inauguration of Inspection; Official Establishment Numbers; Separation of Establishments and Other Requirements; Withdrawal of Inspection**

#### **§ 381.25 Official establishment numbers.**

An official establishment number shall be assigned to each establishment granted inspection service. Such number shall be used to identify all containers of inspected poultry products prepared in the establishment. An establishment shall not have more than one establishment number.

#### **§ 381.26 Separation of establishments.**

Each official establishment shall be separate and distinct from any other official establishment and from any unofficial establishment except an establishment preparing meat products under the Federal Meat Inspection Act or under State meat inspection. Further, doorways, or other openings, may be permitted between establishments at the discretion of the Administrator and under such conditions as he may prescribe.

#### **§ 381.27 Inauguration of service; notification concerning regulations; status of uninspected poultry products.**

The inspector in charge or his supervisor shall, upon or prior to the inauguration of service, inform the operator of the establishment of the requirements of the regulations. If the establishment at the time service is inaugurated contains any poultry product which has not been inspected and marked in compliance with the regulations, its identity shall be maintained,

and it shall not be represented or dealt with as a product which has been inspected. Such products may not be shipped in commerce unless such products are eligible for such shipment under an exemption from inspection under subpart C and comply with all requirements of said subpart.

**§ 381.28 Report of violations.**

Each inspector, agent, representative, or employee of the Inspection Service shall report, in the manner prescribed by the Administrator, all violations of the Act and noncompliance with the regulations of which he has knowledge.

**§ 381.29 Suspension or other withdrawal of inspection service.**

(a) Inspection service may be withdrawn in accordance with section 18 of the Act and the applicable rules of practice.

(b) During a period of withdrawal, no processing of poultry or poultry products subject to the inspection requirements of the Act shall be carried on in the official establishment. However, any product which was inspected and passed prior to the withdrawal may be shipped from the official establishment, provided its identity was maintained, and it has not become adulterated or misbranded.

(c) Inspection may be suspended, revoked, or terminated as provided in subsection 21(b) of the Federal Water Pollution Control Act, as amended.

(d) The assignment of inspectors may be temporarily suspended, in whole or in part, by the Administrator, to the extent he determines necessary to avoid impairment of the effective conduct of the inspection service when the operator of any official establishment or any subsidiary therein, or any officer, employee, or agent of any such operator or any subsidiary therein, acting within the scope of his office, employment, or agency, threatens to forcibly assault or forcibly assaults, intimidates, or interferes with any inspection service employee in or on account of the performance of his official duties under the Act, unless promptly upon the incident being brought by an authorized supervisor of the Inspection Service employee to the attention of

the operator of the establishment the operator (1) Satisfactorily justifies the incident, (2) Takes effective steps to prevent a recurrence, or (3) Provides acceptable assurance that there will not be any recurrences. The suspension shall remain in effect until one of such actions is taken by the operator: *Provided*, That upon request of the operator he shall be afforded an opportunity for an expedited hearing to show cause why the suspension should be terminated.

[42 FR 12416, Mar. 4, 1977]

EFFECTIVE DATE NOTE: At 64 FR 66546, Nov. 29, 1999, § 381.29 was removed, effective Jan. 25, 2000.

**Subpart F—Assignment and Authorities of Program Employees; Appeals**

**§§ 381.30–381.31 [Reserved]**

**§ 381.32 Access to establishments.**

Any duly authorized representative of the Secretary shall have access at all reasonable times, by day or night, whether the establishment is in operation or not, to the premises or any part thereof of an establishment engaged in processing poultry or poultry products for commerce, upon presentation of appropriate credentials.

**§ 381.33 Identification.**

Each inspector will be furnished with a numbered official inspection badge, which shall remain in his or her possession at all times, and which shall be worn in such manner and at such times as the Administrator may prescribe. This badge shall be sufficient identification to entitle the inspector to admittance at all regular entrances and to all parts of the establishment and premises to which the inspector is assigned.

[59 FR 42156, Aug. 17, 1994]

**§ 381.34 Financial interest of inspectors.**

(a) No inspector shall inspect any poultry or poultry product in which he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner, or employee, or any person with whom he is